

Opinion of the court.

KAIL ET AL. v. WETMORE.

SAME v. DOUGLASS.

Writs of error dismissed in two cases ; in one of which were but three plaintiffs in error, while the citation presented four ; and in the other where the names in the citation were different from those in the writ of error ; bonds, moreover, in both cases reciting but one person as plaintiff in error, when there were in fact three.

ERROR to the Circuit Court for the Northern District of Illinois.

On motion of *Mr. Goudy*, opposed by *Mr. Peck*, to dismiss the writ.

Mr. Justice NELSON stated the facts and delivered the opinion of the court.

The judgment was rendered on the 10th of November, 1867. The writ of error was sued out the 19th, returnable the first day of the next term, which was the 2d day of December, a supersedeas bond given on the 29th of the same month, which was in time, excluding Sunday. The case thus far is within the cases of *Villabolas v. United States*, and *United States v. Curry*,* except the signing and service of the citation.

But the decisive objections to the regularity of the proceedings are as it respects the description of the parties. There are but three persons plaintiffs in error. In one of the cases the citation contains four. In the other the names in the citation are altogether different from those in the writ of error,† and the bond given in each case to stay the execution misdescribes the parties to the judgment, reciting but one person as plaintiff in error, when there are three. The numerous errors in the proceedings are remarkable, and for which both cases must be

DISMISSED.

* 6 Howard, 89, 90 ; Id. 106-12.

† The writ described Samuel Kail, *Sebert* Larson, and Erick *Enwell*, plaintiffs in error ; but the citation described them as Samuel Kail, *Seford* Larson, and Erick *Envil*.—REP.